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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/538,334

12/22/2005

Stephen Loomis

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1545

60172

7590

06/29/2010

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EXAMINER

FLANDERS, ANDREW C

ART UNIT

PAPER NUMBER

2614

MAIL DATE

DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

***Response to Arguments***

Applicant's arguments filed 14 June 2010 have been fully considered but they are not persuasive.

Applicant alleges:

Independent claim 1 is respectfully submitted to be allowable at least because the applied references fail to disclose or suggest the claimed feature of being configured to, "initiat[ing] play of the downloaded beginning portion of the target content segment if less than a preallocated quantity of content segments were previously streamed, during a subscription period, in association with a subscriber[.]"

and...

As described by Hsu...

"...A user may therefore select music for a playback device and listen to the selected music during a certain time period or a certain number times..:

Thus...

In addition, paragraph [0013] of Hsu states that "[c]ontent providers can provide more extensive services, such as subscription programs or promotional programs, for music that has a high value." While subscriptions are also mentioned in paragraphs [0032] and [0036] of Hsu<sup>1</sup>, Hsu provides little explanation of subscription programs and makes no mention or suggestion of "preallocated quantities" in the context of "subscription periods." In other words, Hsu discusses expiration of content based on either playback for "a certain number of times" o.\_[r "during a certain time period."

Art Unit: 2614

However, Hsu simply fails to disclose or suggest expiration of content based on playback "a certain number of times .... during a certain time period."

Examiner respectfully disagrees. The argument fails for two reasons...

a.) Applicant points out the section of Hsu that discloses that the playback permissions may be during a time period, or a predetermined number of plays. Or is the key modifier in this sentence. In a 102 rejection, Applicant would be correct that Hsu does not disclose this limitation. However, the rejection was made under 103, and Examiner maintains it would have been obvious to do both, i.e. switching the modifier to and.

b.) secondly, the obvious change as stated above in a.) is not even necessary to meet the claim in its current presentation. The limitation in question reads "if less than a preallocated quantity of content segments were previously streamed, during a subscription period.... A broad reading of the prior art would meet this limitation. IN the alternate, Hsu discloses a certain number of times, while he doesn't close the time period, it is technically indefinite. This indefinite time period meets the "during a subscription period."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREW C. FLANDERS whose telephone number is (571)272-7516. The examiner can normally be reached on M-F 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curtis Kuntz can be reached on (571) 272-7499. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Andrew C Flanders/  
Primary Examiner, Art Unit 2614